IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 33059 of 2007(I)

OS.246/2006 of M.C.,KANNUR
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PETITIONER:

M.SUDHAKARAN S/O.KANNAN
AGED 55 YEARS, TELECOM MECHANIC
RESIDING AT MADATHIL HOUSE,
P.O., MUNDAYAD, KANNUR DISTRICT.

BY ADV. SRI.V.RAJAGOPAL

RESPONDENTS:
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1. FEDERATION OF NATIONAL POSTAL
ORGANIZATION (FNPO) KANNUR
DIVISION, REP. BY ITS CONVENOR, K.V.SUDHEER KUMAR
S/O. K.P.KUNHIRAMA PODUVAL, KANNUR HEAD P.O.

2. NATIONAL UNION OF BSNL WORKERS
(FNT O) SSA KANNUR REP.BY ITS SECRETARY,
K.V.HARIDASAN,S/O.KANNAN,TELECOM MECHANIC
PANKAJALAYAM CHIRAKKAL P.O., KANNUR DISTRICT.

3. KANNUR MUNICIPALITY REPRESENTED BY
ITS SECRETARY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.33059 of 2007

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Dated this the 7th day of November, 2007.

JUDGMENT

This Writ Petition is preferred to direct the Munsiff, Kannur to give an opportunity to the petitioner to have the work of the Advocate Commissioner duly completed in O.S.No.246 of 2006 before proceeding with the matter in trial.

2. Grievance of the writ petitioner is that the Commissioner had given notice of visit on a particular date and on account of bereavement in the family, the plaintiff could not attend the Commissioner and thereafter the Commissioner had returned the warrant and now the suit is listed for trial. The Commissioner's report is absolutely essential for a just and proper disposal of the matter and for resolving the controversy between the parties. The very fact that the Commission had been issued justifies that contention of the writ petitioner. It is true that there has been some laches on the part of the plaintiff and it is always desirable

that the parties are given full opportunities at the trial stage, so that unnecessary contentions at later stage can be averted. So, to meet the ends of substantial justice, I feel that a direction is to be given to the court below.

3. Therefore, the Writ Petition is disposed of directing the court court below to direct the Commissioner who had returned the warrant to proceed with the work and submit a report to the court within a time frame as fixed by the court and thereafter shall hear both the parties and dispose of the matter in accordance with law. Needless to say that the other side also shall be permitted to file work memo if they want to get the particulars from the Commissioner. Till the Commissioner's report is received, the court below is directed to defer the trial.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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